



**Under One Roof**

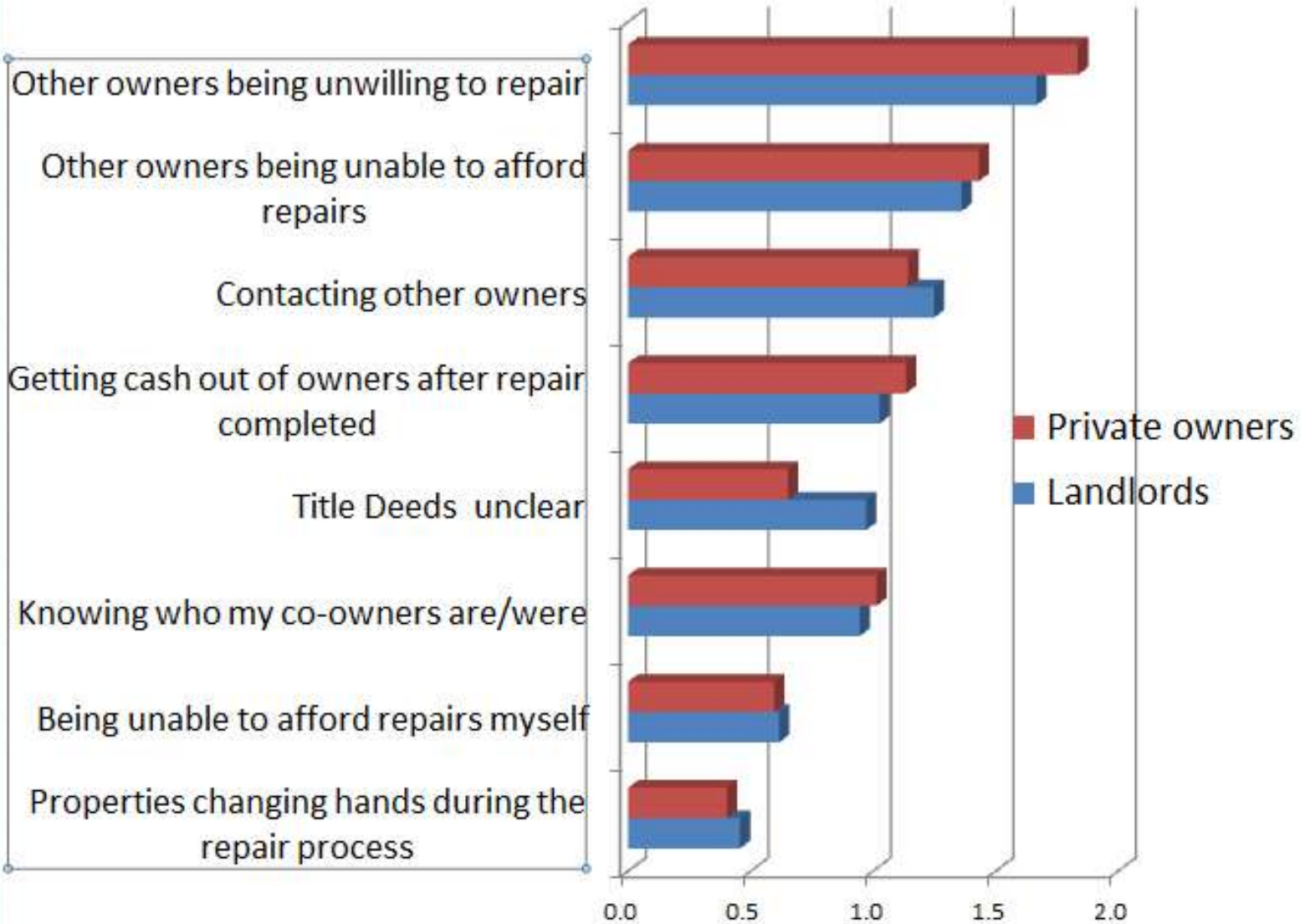
# Flat owners rights and repair responsibilities

# Private Landlords

**Your common repair issues  
are much the same as for  
owner occupiers but**



## Common Repair Problems



# Unlike other owners

- Coping with different rules for different buildings
- Blamed by other owners for delays
- Greater responsibility to repair
  - Statutory Repairing Standard
  - Greater responsibility for Health and Safety

# Letting Agents

- Are responsible for repairs unless contracted out
- Must use qualified and reputable firms
- Must stop working for landlords who do not carry out repairs

# Good practice management and maintenance

## How to protect yourselves

# Find out your rights and responsibilities

- These are set out in
  - your [Title Deeds](#)
  - [Tenement Management Scheme](#) (TMS) (Tenements Scotland Act 2004)



# Key points to check

- What are common, mutual and individual repairs
- How decisions should be made
- How costs are divided between flat owners
- Whether you must have a factor

# The Tenements Act steps in where Title Deeds

- Say nothing
- Are unworkable
  - Shares don't add up to 100%
  - Shares are by Rateable Value  
BUT flats have been divided or enlarged

# Additional rules from the Tenements Act

- Duty to maintain
- Compulsory reinstatement and common parts insurance
- Owners remain responsible for repairs started even if they sell
- Properly made decisions are binding on those who didn't agree

# Repairs to following are COMMON

- ground on which building stands (not always the garden)
- foundations
- external walls – to mid point
- the roof (incl rafters).
- structural parts - beams, columns, load bearing walls.
- the close and stairs (when not mutual)

**\*\* unless Title Deeds say otherwise\*\***

# Repairs to these are INDIVIDUAL

- internal walls
- the inner side of external and close walls
- doors, windows , skylights, extensions chimneys ,flues etc *that serve only one flat*
- services - from where they leave the common services
- front gardens (normally)

**\*\* unless Title Deeds say otherwise\*\***

# Repairs to these MUTUAL

- Elements that serve just SOME flats in the building
  - Chimneys and chimney heads.
  - Drainpipes
  - Close and stairs (where there are main door flats)

**\*\* unless Title Deeds say otherwise\*\***

# Contacting owners

- Take all reasonable steps
  - send letters (including to their agent),
  - emails,
  - Facebook or WhatsApp etc
  - Post through the letter box addressed to “The Owner”
- Keep records, photos and screenshots

# Tracking down owners

- Landlords Register
- Land Register
  - name of owner
  - address at time of purchase
  - other properties owned
- Council Tax Register – ask to send message
- Empty Homes Officers
- Shops – Scottish Assessors
- Search name online
- Sheriff Officers and Private Detectives



# Making decisions

- Majority decision for maintenance
- Majority decision is binding
- A tied vote is an impasse
  
- 100% decision for improvements

**\*\* unless Title Deeds say otherwise\*\***

# What is maintenance?

- repairs and replacement,
- cleaning, painting, gardening,
- other routine works,
- the day to day running of a tenement
  - using a factor
- the reinstatement of a part (but not most) of the tenement building.

\*\* unless Title Deeds say otherwise\*\*

# What are improvements?

- adding anything not there at present

**BUT** the following are **NOT** improvements

- Door entry systems
- Insulation
- “Incidental improvements” eg you replace your existing broken close door with one of a better standard

**\*\* unless Title Deeds say otherwise\*\***

# Making decisions - meetings

- Give adequate notice – Tenements Act says 48 hours but more is better
- Notify people purpose of meeting
- Consider using Skype etc
- Those who can't make it can send a proxy
- Send immediate notification of decisions
- Allow 21 days for people to appeal

\*\* unless Title Deeds say otherwise\*\*

# Making decisions – other means

- You can send letters, emails, notify by Facebook or Whatsapp etc
- Keep records and screenshots

# Budgeting for repairs

- Repairs are inevitable – so start saving now.
- Encourage your co-owners to start saving

# How to save

- Best – have a Building Reserve Fund where savings are tied to the building (a pension for the building)
- Second best - have a building maintenance fund set up through your owners association (a joint current account)
- If all else fails, save individually

# Enforcing repairs



# Take on non-paying owners

- Don't let decay spread because one owner won't co-operate
- Follow proper procedures and the law is on your side
- You can almost always get blood out of a stone but it can take a long time
- Difficult conversations and mediation

# Can't pay or won't pay?

- “Can't pay” owners may ignore problem or quibble about costs
- Advise ALL owners to get financial help
  - [Pages on Under One Roof](#)
  - Citizens Advice
  - Money Advice Scotland
- [Equity Release Schemes and other loans](#) may be useful

# HEEPS Home Equity Scheme

- Element of energy efficiency work
- Council Tax Bands A – C or on benefit
  - Glasgow City
  - Argyll and Bute
  - Perth and Kinross
  - Inverclyde
  - Renfrewshire
  - Dundee
  - Stirling

# “Duty to maintain”

s8 Tenements Act Scotland 2004

- Owners have a duty to maintain their property so as to **provide support and shelter**
- Not just common repairs
- One owner can carry out appropriate repairs and recover costs, even if no majority agreement

# Notice of Potential Liability for Costs

- Notice lodged with Title Deeds
- Owner cannot sell until cost of repairs paid
- Needs renewed every 3 years
- Does not need court order
- Get help from solicitor/ conveyancer

# Help from your Council

- If you have tried all the above and are getting nowhere, ask your local council for help
- Council staff are willing to help with advice
- Grants are seldom available
- Some Councils have resources to offer “Missing Shares”

# Missing Shares

- Get Council agreement to use Missing Shares before you start
- Majority of owners must agree to repair
- Council will notify owners of use of Missing Shares
- 9 out of 10 owners agree to repair when they hear of 8% interest rates and admin charges
- Follow procedures to the letter
- Council will pay Missing Shares and recover costs from owners

# Other powers available to Councils

- Work Notices
- Repairing Standards for Private Landlords
- Maintenance Orders
- Public Health Action
- Closing Orders
- Disrepair/ defective building notice



# Recovering costs

- If the Council can't help, you need to:
  - Check you've followed proper procedures
  - Carry out the repair
  - Pay contractor
  - Send the bill for that owner's share
  - Send a reminder with a warning that you are taking action to recover costs
- No empty threats - if the owner still won't pay, take action

# Court Action

- New “[Simple Procedure](#)”
  - Replaces Small Claims Procedure
  - For claims under £5,000
  - DIY – does not need legal help
  - Takes mediation based approach
  - Sheriff Court staff are helpful



# Under One Roof

Online information for flat owners in Scotland  
[www.underoneroof.scot](http://www.underoneroof.scot)



**Discover** how to work happily with your neighbours

**Find out** your rights and responsibilities as a flat owner

**Identify** what's wrong with your building

**Get advice** on organising repairs and dealing with builders

**Check** out how to pay for repairs

Save money and protect the value of your home  
with more under one roof.



# Under One Roof

Impartial advice on repairs and maintenance for flat owners in Scotland

## Owners + Obligations

### Acting together

Working well with your neighbours

### Property management rules

Found in your Title Deeds and other legislation

### Property Factors (Managers)

Rules for professional building managers

### Paying for repairs

How to raise the money for repairs

### Enforcing repairs

Dealing with owners who won't pay

### Moving on

Buying, selling, renting, improving

## Six ways to keep your flat's value

Owners' rights and responsibilities, to maintain and manage a building.

## Meeting presentations

If you are holding meeting of owners, you may find it useful to download some of these presentations to show to owners via your laptop, tablet or computer.

[Under One Roof Poster](#)[Six ways to keep your flat's value](#)[Your repair and maintenance responsibilities](#)[Making decisions about managing and maintaining your flat](#)[Getting the best from your property factor](#)[Working with your co-owners](#)[Dealing with reluctant owners](#)[Financing Repairs](#)[Typical repair problems in stone buildings](#)[Typical repair problems in newer buildings](#)

If you wish to print these presentations as handouts, be sure to click "Multiple" on the Paper Size and Handling section of the Print Menu page - you could use a lot of paper otherwise!

Get updates by email

We send occasional legal and technical updates

More information

[www.underoneroof.scot](http://www.underoneroof.scot)